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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MARK VELICER; VELICER ICE, INC.;
11 VELICER ICE MARINERS, LLC; and
12 VELICER ICE KENT, LLC,

13 Plaintiffs,

14 vs.

15 FALCONHEAD CAPITAL LLC,

16 Defendant.

Case No. 2:19-CV-01505-JLR

**DEFENDANT’S MOTION TO EXTEND
DEADLINES IN COURT ORDER DATED
NOVEMBER 18, 2019 SETTING TRIAL
DATES AND RELATED DATES**

**NOTED FOR CONSIDERATION:
APRIL 17, 2020**

17 Pursuant to Fed. R. Civ. P. 6 and 16, Defendant Falconhead Capital LLC (“Falconhead”) respectfully submits this motion requesting that the Court issue an order extending all deadlines in the November 18, 2019 Scheduling Order, by ninety (90) days to allow for adequate time to complete discovery and permit the efficient handling of this litigation.

20 The parties agree that an extension of the scheduling deadlines is appropriate; however, the parties have not agreed as to the length of that extension. Falconhead requested that Plaintiffs Mark Velicer, Velicer Ice, Inc., Velicer Ice Mariners, LLC, and Velicer Ice Kent LLC (collectively “Plaintiffs”) stipulate to the requested ninety (90) day extension of the scheduling deadlines but Plaintiffs would only agree to a forty-five (45) day extension. Because the parties were not able to resolve this dispute, Falconhead submits this motion on its own behalf.

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On October 28, 2019, Falconhead filed a Motion to Dismiss the Complaint. On March 11, 2020, the Court granted Falconhead's motion to dismiss, but gave Plaintiffs leave to amend their complaint on certain limited grounds. On March 31, 2020, Plaintiffs filed an amended complaint and supporting declaration. The discovery period is currently set to expire on November 2, 2020 and the deadline for dispositive motions is December 1, 2020.

A ninety (90) day extension of the discovery deadlines would be appropriate under the circumstances and would serve the interest of efficiency and judicial economy.

Second, it is also possible that Plaintiffs may attempt to further amend their pleadings, which could inject new factual allegations and change the scope of relevant discovery. Unless and until those amendments are made, Falconhead is unable to foresee what discovery may be needed.

Third, the parties' ability to efficiently litigate this action has been hampered by the COVID-19 pandemic and the related stay-at-home orders which have shuttered Falconhead's and its counsels' offices. This may substantially limit access to documents and services

1 necessary for the litigation of this action. It may further impact the Court's ability to address any
2 discovery disputes that may arise. It also impacts the parties' ability to engage in potential third-
3 party discovery or to travel to conduct depositions in person, which Defendants wish to do if
4 feasible. Extending the scheduling order by ninety (90) days would allow the party to
5 appropriately address appropriately respond to these and other possible issues.

6 Rules 6 and 16 allow the Court to extend deadlines which have not yet passed for "good
7 cause." The district court is "given broad discretion in supervising the pretrial phase of
8 litigation." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir.1992). The good
9 cause standard "primarily considers the diligence of the party seeking the amendment." *Id.* at
10 609. "[A]n application for the enlargement of time under Rule 6(b)(1) normally will be granted
11 in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse
12 party." *Federal Practice & Procedure* § 1165.

13 Good cause exists to grant the requested extension. Falconhead has been diligent in
14 defending these claims. Falconhead's first motion to dismiss resulted in the substantial
15 narrowing of the issues before the Court and Falconhead intends to file a second motion to
16 dismiss Plaintiffs' Amended Complaint. There is no prejudice to Plaintiffs caused by a ninety
17 (90) day extension of the scheduling deadlines, as it represents a modest extension beyond the
18 forty-five (45) days which they proposed. Moreover, the extended deadlines, and any prejudicial
19 effect from this brief additional delay, may be mooted by Falconhead's forthcoming motion to
20 dismiss the amended complaint which could lead to final dismissal of this matter. Should that
21 motion to dismiss be denied, the parties will have the benefit of additional time to conduct
22 discovery more efficiently which may, ultimately, lead to earlier resolution of this matter.
23 Additionally, the requested extension will allow the parties to better account for the impact of the
24 COVID-19 pandemic and the related restriction on work and travel. Moreover, the extension will
25 advance the interest of judicial economy. The pandemic has continued all previously scheduled
26 trials for some period of months. Extending the deadline here will ensure that there is adequate

1 space on the calendar to reschedule these delayed trials and otherwise balance the Court's
2 workload in the coming months.

3 Finally, Falconhead makes this request in good faith, motivated by a desire to engage in
4 efficient litigation, avoid unnecessary burden and expense, and serve the interest of judicial
5 economy. Thus, the motion should be granted.

6 **WHEREFORE**, Defendant Falconhead respectfully requests that the Court extend all
7 deadlines and dates in the November 18, 2019 Order, including the discovery deadline, by ninety
8 (90) days as set forth in the attached proposed order.

9 DATED this 6th day of April, 2020.

10
11 *s/Daniel J. Oates*

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15 Attorneys for Defendant Falconhead Capital
16 LLC

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SIGNED at Seattle, Washington this 6th day of April, 2020.

Jennifer L. Schnarr, Legal Assistant